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SUPREME COURT OF THE UNITED STATES.

No. 58.

THE UNITED STATES, PLAINTIFF,

VERSUS

JOHN BAILEY.

KENTUCKY—CIRCUIT COURT OF THE UNITED STATES.

UNITED STATES OF AMERICA, *Seventh circuit, Kentucky District, November term, 1834.* } *November 27th.*

United States vs. John Bailey.

THE UNITED STATES OF AMERICA *against* JOHN BAILEY. } *On an indictment for Felony.*

Be it remembered, that, on the trial of the issue, on the plea of not guilty to the following indictment, the following question arose for decision, (indictment, to wit:)

First count.

UNITED STATES OF AMERICA, *Seventh circuit, Kentucky District,* } *to wit:*

The grand jurors of the United States of America, empannelled at the November term of the court of the said United States, for the seventh circuit and Kentucky district, in the year of Christ one thousand eight hundred and thirty-four, and sworn and charged to inquire for the body of the said district of Kentucky, upon their oath present, that John Baily, late of the county of Bath, in the said district, laborer heretofore, that is to say, on the twenty-fifth day of November, in the year of Christ one thousand eight hundred and thirty-two, at the county of Bath, in the district of Kentucky aforesaid, in the seventh circuit, and within the jurisdiction of this court, feloniously did falsely make and cause and procure to be falsely made, and willingly did and assist in the false making a certain writing, purporting to be the affidavit of him, the said John Bailey, which said false affidavit is as follows, that is to say:

COMMONWEALTH OF KENTUCKY, *County of Bath,* } *Sct.*

The affidavit of John Bailey, one of the executors of Captain John Bailey, deceased, states that he is not interested in said estate, that Warren Bailey, jr., and James C. Bailey, who have joined with him in a power of attorney to the honorable Richard M. Johnson, to draw any moneys that may be due

them from the Government of the United States, are the residuary legatees of solely interested; that he is years of age, and the son of said John Bailey, deceased, who, from his earliest recollection, was reputed a captain in the revolutionary army, and in the Illinois regiment; that he has seen his father's commission, and thinks there were two; of that fact he will not be certain, but it is his strongest impression, and is perfectly confident, that the commissions, if two, both were signed by Thomas Jefferson; that his father's papers fell into his hands as executor, and he has made many fruitless searches for them, and can in no wise account for their loss, unless they were given to General Thomas Fletcher, deceased, while a member of Congress, to see if he could get any thing, as affiant knows that his father applied to said Fletcher to do something for him, and understood afterwards the law had made no provision for cases situated like said John Bailey.

As witness my hand and seal this day of November, 1832.

JN. BAILEY, [SEAL.]

To which said affidavit he, the said John Bailey, first above mentioned, on the day and year aforesaid, at the county and in the district aforesaid, feloniously did cause and procure to be made and annexed, and willingly did aid and assist in making and annexing a certain certificate of one Josiah Reed, a justice of the peace, of the commonwealth of Kentucky, in and for the county of Bath aforesaid; which said certificate is as follows, that is to say:

STATE OF KENTUCKY, *Bath County* } *Set.*

The foregoing affidavit was signed and sworn to, before me, by John Bailey, jr., and I further certify that said John Bailey, jr., is a man of truth and respectability, and to be strictly relied on when on oath.

Given under my hand and seal, as a justice of the peace for Bath county, and commonwealth aforesaid, this 25th day of November, 1832.

J. REED, *J. P. B. C.* [SEAL.]

With interest to defraud the United States, and to obtain and receive from the United States a large sum of money, that is to say, the sum of ten thousand three hundred and ninety-nine dollars and fifty-six cents, against the peace and dignity of the United States of America, and contrary to the form of the statute of the United States of America in such case made and provided.

Second count.

And the jurors aforesaid, upon their oath aforesaid, do further present, that the said John Bailey, heretofore, that is to say, on the twenty-sixth day of November, in the year of Christ one thousand eight hundred and thirty-two, at the district aforesaid, in the seventh circuit, and within the jurisdiction of this court, feloniously did alter and publish as true, and cause to be altered and published as true, the false writing above mentioned and set forth, purporting to be the affidavit of him, the said John Bailey, to which was annexed the certificate above set forth of the aforesaid Josiah Reed, and to which on the day and year last aforesaid, at the district of Kentucky aforesaid, there was annexed also a certain other certificate made by one William M. Suddeth, the clerk of the court of the county of Bath aforesaid, which said last mentioned certificate is as follows, that is to say:

STATE OF KENTUCKY, } *Sct.*
Bath County, }

I, William M. Suddeth, clerk of the Bath county court, do certify that the aforesaid Josiah Reed, whose name is subscribed to the foregoing certificate, is a justice of the peace in and for the county aforesaid, duly commissioned and sworn, and the hand writing is genuine and well known to the aforesaid Wm. M. Suddeth; as witness my hand and seal of office this 26th November, 1832.

[SEAL.] W. M. SUDDUTH.

With intent to defraud the United States, he, the said John Bailey, then and there well knowing the said writing, that is to say, the affidavit aforesaid, of him, the said John Bailey, to be false, against the peace and dignity of the United States of America, and contrary to the form of the statute of the United States of America in such case made and provided.

Third count.

And the grand jurors aforesaid, on their oath aforesaid, do further present that the said John Bailey, heretofore, that is to say, on the first day of December, in the year of Christ one thousand eight hundred and thirty-two, at the district of Kentucky aforesaid, in the seventh circuit, and within the jurisdiction of this court, feloniously did transmit and cause to be transmitted to the office of the Secretary of the United States, the same being an officer of the Government of the United States, the false writings above set forth, to which was annexed the aforesaid certificates of Josiah Reed, and William M. Sudduth above set forth, with intent to defraud the United States, and in support of, and in relation to, a claim made against the United States on behalf of one Warren Bailey, one Charles C. Bailey, and himself, the said John Bailey, for a large sum of money, that is to say, the sum of ten thousand three hundred and ninety-nine dollars and fifty-six cents, under the act of Congress of the fifth day of July, one thousand eight hundred and thirty-two, entitled "An act to provide for liquidating and paying certain claims of the State of Virginia." He, the said John Bailey, at the time of his transmitting, and causing and procuring to be transmitted, the said writing, well knowing the same to be false against the peace and dignity of the United States of America, and contrary to the form of the statute of the United States of America, in such case made and provided.

Fourth count.

And the jurors aforesaid, upon their oath aforesaid, do further present, that the said John Bailey, heretofore, that is to say, on the seventh day of December, in the year of Christ one thousand eight hundred thirty-two, at the district of Kentucky aforesaid, in the seventh circuit, and within the jurisdiction of this court, feloniously did cause and procure to be presented at the office of the Secretary of the Treasury of the United States, the same being an office of the Government of the United States the false writing above set forth, to which was annexed the certificates of the said J. Reed, and W. M. Sudduth, as above set forth, with intent to defraud the United States, and in support of and in relation to a claim made against the United States for a large sum of money, that is to say, the sum of ten thousand three hundred ninety-nine dollars and fifty-six cents, by one Warren Bailey, one Charles C. Bailey, and him, the said John Bailey, under an act of the Con-